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United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CR. NO. 04-00053 DAE
)
Plaintiff,) JOINT PROPOSED JURY
) INSTRUCTIONS
vs.)
)
SILVER JOSE GALINDO,)
aka Daniel S. Galindo,)
aka Timothy Mau,)
) Date: April 1, 2008
Defendant.) Time: 9:00 a.m.
) Judge: David Alan Ezra

JOINT PROPOSED JURY INSTRUCTIONS

The following joint jury instructions are hereby provided to
this Court, which both sides have approved. Disputed jury

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instructions will be separately submitted by the respective proponent party for the Court's resolution.

DATED: March 20, 2008, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Darren W.K. Ching

DARREN W.K. CHING
Assistant U.S. Attorney

/s/ Jack Schweigert

JACK SCHWEIGERT
Attorney for Defendant
SILVER JOSE GALINDO

INSTRUCTIONS FROM DISTRICT JUDGE EZRA'S
"GENERAL FEDERAL INSTRUCTIONS IN CRIMINAL CASES"

- 1 Duty of Judge
- 2A Duty to follow instructions - single defendant
- 3A Reasonable Doubt (Where Defendant Does Not Testify)
[if applicable]
- 3B Reasonable Doubt (Where Defendant Testifies)
[if applicable]
- 4 Evidence - excluding argument of counsel
- 5 Evidence - objections
- 6 Evidence - excluding statements of Judge
- 7 Evidence - stipulation [if applicable]
- 8 Evidence - direct and circumstantial
- 9 Evidence - credibility of witnesses
- 10 Evidence - expert witnesses
- 11 Impeachment - generally
- 13 Impeachment - prior conviction
- 14A Impeachment of Defendant - general instruction
[if applicable]
- 14B Impeachment of Defendant - general instruction & prior
conviction
[if applicable]
- 15 On or about
- 16 Knowingly
- 17B Caution - Punishment - single defendant, multiple
counts in indictment
- 18 Duty to deliberate
- 19A Verdict Form - single defendant

INSTRUCTIONS FROM NINTH CIRCUIT
MANUAL OF MODEL CRIMINAL JURY INSTRUCTIONS

- 1.1 Duty of Jury
- 1.2 The Charge – Presumption of Innocence
- 1.3 What Is Evidence
- 1.4 What Is Not Evidence
- 1.5 Evidence for Limited Purpose
- 1.6 Direct and Circumstantial Evidence
- 1.7 Ruling on Objections
- 1.8 Credibility of Witnesses
- 1.9 Conduct of the Jury
- 1.10 No Transcript Available to Jury
- 1.11 Taking Notes
- 1.12 Outline of Trial

- 2.1 Cautionary Instruction – First Recess
- 2.2 Bench Conferences and Recesses
- 2.3 Stipulated Testimony
- 2.4 Stipulations of Fact
- 2.5 Judicial Notice
- 2.10 Other Crimes, Wrongs or Acts Evidence

- 3.0 Cover Sheet
- 3.1 Duties of Jury to Find Facts and Follow Law

- 3.2 Charge Against Defendant Not Evidence – Presumption of Innocence – Burden of Proof
- 3.3 Defendant's Decision Not to Testify [if applicable]
- 3.4 Defendant's Decision to Testify [if applicable]
- 3.5 Reasonable Doubt–Defined
- 3.6 What Is Evidence
- 3.7 What Is Not Evidence
- 3.8 Direct and Circumstantial Evidence
- 3.9 Credibility of Witnesses
- 3.10 Evidence of Other Acts of Defendant or Acts and Statements of Others [if applicable]
- 3.11 Activities Not Charged
- 3.12 Separate Consideration of Multiple Counts
- 3.18 Possession–Defined

- 4.3 Other Crimes, Wrongs or Acts of Defendant [if applicable]
- 4.6 Impeachment, Prior Conviction of Defendant [if applicable]
- 4.8 Impeachment Evidence–Witness [if applicable]
- 4.9 Testimony of Witness Receiving Benefits
- 4.17 Opinion Evidence, Expert Witness

- 5.6 Knowingly – Defined

- 6.9 Mere Presence

- 7.1 Duty to Deliberate
- 7.2 Consideration of Evidence
- 7.3 Use of Notes
- 7.4 Jury Consideration of Punishment
- 7.5 Verdict Form
- 7.6 Communication with Court

ADDITIONAL PROPOSED JURY INSTRUCTIONS

JOINT PROPOSED JURY INSTRUCTION NO. 1

It is not necessary that the firearms alleged to have been used, carried, or possessed by the defendant be produced by the government as an exhibit at trial. What is required is that there is evidence beyond a reasonable doubt, that the objects used, carried, or possessed by the defendant were firearms.

GIVEN _____
REFUSED _____
MODIFIED _____

JOINT PROPOSED JURY INSTRUCTION NO. 2

It is not necessary that the methamphetamine alleged to have been possessed by the defendant be produced by the government as an exhibit at trial. What is required is that there is evidence beyond a reasonable doubt, that the drugs possessed by the defendant was methamphetamine.

GIVEN _____
REFUSED _____
MODIFIED _____

CLEAN SET OF JURY INSTRUCTIONS

INSTRUCTION NO. ____

It is not necessary that the firearms alleged to have been used, carried, or possessed by the defendant be produced by the government as an exhibit at trial. What is required is that there is evidence beyond a reasonable doubt, that the objects used, carried, or possessed by the defendant were firearms.

INSTRUCTION NO. ____

It is not necessary that the methamphetamine alleged to have been possessed by the defendant be produced by the government as an exhibit at trial. What is required is that there is evidence beyond a reasonable doubt, that the drugs possessed by the defendant was methamphetamine.